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Samsung Electronics America, Inc., and  
Samsung Research America, Inc.

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

HUAWEI TECHNOLOGIES CO., LTD., et al.,  
Plaintiffs,  
v.  
SAMSUNG ELECTRONICS CO., LTD., et al.,  
Defendants.

SAMSUNG ELECTRONICS CO., LTD. &  
SAMSUNG ELECTRONICS AMERICA, INC.,  
Counterclaim-Plaintiffs,  
v.  
HUAWEI TECHNOLOGIES CO., LTD.,  
HUAWEI DEVICE USA, INC., HUAWEI  
TECHNOLOGIES USA, INC. & HISILICON  
TECHNOLOGIES CO., LTD.,  
Counterclaim-Defendants.

CASE NO. 16-cv-02787-WHO

**DECLARATION OF MARK GRAY IN  
SUPPORT OF SAMSUNG'S  
ADMINISTRATIVE MOTION TO FILE  
UNDER SEAL PORTIONS OF  
SAMSUNG'S MOTION TO PARTIALLY  
EXCLUDE THE REPORT AND  
TESTIMONY OF JORGE PADILLA,  
MICHAEL J. LASINSKI, AND  
CHARLES L. JACKSON AND STRIKE  
THE REBUTTAL OPINIONS OF  
JACQUES DELISLE AND ZHI DING**

1 I, Mark Gray, declare as follows:

2 1. I am a member of the State Bar of California and an attorney at the law firm of  
3 Quinn Emanuel Urquhart & Sullivan, LLP, counsel for Defendants and Counterclaim-Plaintiffs  
4 Samsung Electronics Co., Ltd. and Samsung Electronics America, Inc., and Defendant Samsung  
5 Research America, Inc. (collectively, "Samsung"). Except as otherwise indicated, I have personal  
6 knowledge of the facts set forth in this declaration, and, if called upon as a witness, I could and  
7 would testify to such facts under oath.

8 2. Pursuant to Civil L.R. 7-11 and 79-5, I make this declaration in support of  
9 Samsung's Administrative Motion to File Under Seal Portions of Samsung's Motion To Partially  
10 Exclude The Report And Testimony Of Jorge Padilla, Michael J. Lasinski, And Charles L.  
11 Jackson And Strike The Rebuttal Opinions Of Jacques deLisle And Zhi Ding ("Motion to  
12 Exclude").

13 3. I have reviewed the portions of Samsung's Motion to Exclude that contain or  
14 suggest confidential information. I have specifically reviewed the following portions of  
15 Samsung's motion and supporting exhibits, all of which contain information Samsung claims as  
16 confidential:

Document	Portions to be Filed Under Seal
Exhibit 10	Entire document

17  
18  
19  
20 4. Exhibit 10 is a third-party report by ABIresearch purchased by Samsung. The  
21 report reserves all rights, including the rights of reproduction and distribution. Because  
22 unauthorized disclosure of this report could result in claims against Samsung, Samsung requests  
23 the Court order this report sealed.

24 5. I have reviewed the portions of Samsung's Motion to Exclude that contain or  
25 suggest confidential information belonging to both Samsung and Huawei. I have specifically  
26 reviewed the following portions of Samsung's motion and supporting exhibits, all of which  
27 contain information which Samsung claims as confidential and which Huawei may claim as  
28 confidential:

Document	Portions to be Filed Under Seal
Motion to Exclude	Green highlighted portions of Samsung's Motion filed with the Court
Exhibit 1	Entire document
Exhibit 2	Entire document
Exhibit 3	Entire document
Exhibit 4	Entire document
Exhibit 5	Entire document
Exhibit 7	Entire document
Exhibit 8	Entire document
Exhibit 12	Entire document
Exhibit 14	Entire document

6. The above exhibits to Samsung's Motion to Exclude, as well as the highlighted portions of Samsung's Motion, include testimony or expert reports reflecting negotiations correspondence and licensing offers between Huawei and Samsung, as well as reflect highly confidential patent licenses between third parties and either Samsung or Huawei. As Samsung explained in the sworn declaration of Hojin Chang, Dkt. 41-1, and the Declaration of Cole Malmberg, Dkt. 234-1, Samsung and Huawei signed a non-disclosure agreement regarding their patent licensing negotiations, and such negotiations information is treated as confidential. Samsung considers negotiation information highly confidential and does not disclose it to the public. Disclosure of negotiations positions to the public would harm Samsung's competitive standing by giving competitors insight into Samsung's past licensing positions and practices. Samsung does not have access to similar information about its competitors, which could result in an information asymmetry in future licensing negotiations, placing Samsung at a disadvantage. This is equally true for Samsung's license agreements with third parties, which Samsung has agreed to keep as confidential to prevent competitive harm to Samsung and its counterparties.

7. The Court previously ordered the parties' negotiations positions and documents reflecting those negotiations sealed at Dkt. 103 at 18-19 (finding "compelling justification" for

1 sealing) and Dkt. 270 at 3. Sealing is similarly warranted here.

2 8. Huawei may also claim confidentiality over materials that reveal Huawei's  
3 negotiation offers and positions, as well as Huawei's patent licenses with third parties. Samsung  
4 does not object to Huawei seeking to seal these materials, and Samsung expects that Huawei will  
5 file any supporting declarations within the timeline allowed under the Local Rules.

6 9. I have also reviewed the portions of Samsung's Motion to Exclude that contain or  
7 suggest information Huawei may maintain a claim of confidentiality over. This information is  
8 reflected in the chart below:

Document	Portions to be Filed Under Seal
Samsung's Motion to Exclude	Yellow highlighted portions of Samsung's Motion filed with the Court
Exhibit 6	Entire document
Exhibit 11	Entire document
Exhibit 16	Entire document
Exhibit 19	Entire document
Exhibit 20	Entire document
Exhibit 23	Entire document

18 10. The above exhibits and references to them in Samsung's Motion to Exclude reflect  
19 documents, depositions, and an expert report that Huawei marked Highly Confidential –  
20 Attorneys' Eyes Only under the protective order. To the extent Huawei maintains a claim of  
21 confidentiality over the above materials as revealing Huawei confidential business information,  
22 Samsung expects Huawei will file declarations supporting sealing within the time permitted under  
23 the Local Rules.

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25 I declare under penalty of perjury under the laws of the United States of America that the  
26 foregoing is true and correct to the best of my knowledge. Executed July 3, 2018, in Redwood  
27 City, California.  
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/s/ Mark Gray  
Mark Gray

**ATTESTATION**

I, Victoria F. Maroulis, am the ECF user whose ID and password are being used to file the above Declaration. In compliance with Civil L.R. 5-1(i)(3), I hereby attest that Mark Gray has concurred in the aforementioned filing.

/s/ Victoria F. Maroulis  
Victoria F. Maroulis